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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,271	07/21/2003	W. Kenneth Menke	54071-39855	7481

21888 7590 11/16/2004

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EXAMINER

LEE, GUIYOUNG

ART UNIT PAPER NUMBER

2875

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/624,271	MENKE ET AL.	
	Examiner	Art Unit	
	Guiyoung Lee	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eby (US 3,721,374) in view of Lund (US 5,130,906).

3. Re claims 1, 8 and 9: Eby discloses a light bar for a vehicle, the light bar comprising an elongate support (11); a plurality of light assemblies (51 in Fig. 2) connected to the support (30) in position that are specially arranged along the length of the support and, the support being flexible along the length of the support enabling the support to bend in a curved configuration that follows the curve of the top edges of the rooftop of the vehicle (See the bendable support 30 in Fig. 8), and at least one mounting bracket (36) that is connectable to the light bar and is connectable to the vehicle to hold the support and the plurality of light assemblies connected to the support in positions. Eby's elongated support is not extending across either of the front facing and rear facing windows along the window top edge. Eby's elongated support is extending across the top surface of the vehicle as disclosed in Fig. 1. However, Lund's visor that has an elongated support (1 in Fig. 1) and lights is extending across the front facing window top edge (See Fig. 1). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Eby's light bar to extend across the front facing window top edge as taught by Lund in order to protect the windshield from sun and rain.

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Re claims 2-3, 6 and 15: Lund's elongated support and the plurality of light assembly is in positions in front of the top edge of the window and below the top surface of the (See 8, 11 and 12 in Fig. 1). Further, Lund's plurality of light assembly is connected to only the front surface of the support (8, 9, 11 and 12 in Fig. 1).

Re claims 4-5 and 10-11: It has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. Therefore, the phrase "being connectable" does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

4. Claims 7, 12-14, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eby and Lund in view of Carr (US 4,928,216).

Re claims 7, 12-14 and 16-17: Eby and Lund do not disclose the limitation that is "each light assembly of the plurality of light assemblies being mounted in a case of the plurality of cases for adjusting movement of the light assembly relative to the case". However, Carr teaches a plurality of lights and each light assembly of the plurality of light assemblies is mounted in a case of the plurality cases (11 in Fig. 1) for adjusting movement of the light assembly (See the movement in Fig. 2).

Re claim 18-19: : It has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. Therefore, the phrase "being connectable" does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

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Re claim 20: Lund discloses that the plurality of cases and the plurality of light assembly are mounted to only the front surface of the support (8, 9, 11 and 12 in Fig. 1).

Conclusion

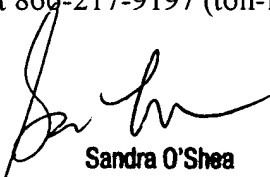
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. J.P. Francis (US 3,424,490) discloses a mounting bracket being connected to the front window of a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guiyoung Lee whose telephone number is 571-272-2374. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LGY


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